

REMARKS

Claims 1-20 remain pending in the application and are subject to a restriction requirement. In response to the restriction requirement, Applicants provisionally elect Species II (indicated by the Examiner to be disclosed in Fig. 4) with traverse. Moreover, in the event that the restriction requirement becomes final, Applicants assert that claims 1, 6 and 19 are generic. Reconsideration of the restriction requirement is respectfully requested in view of the following remarks.

Traverse of Restriction Requirement

Applicants respectfully traverse the restriction requirement because examination of the pending claims does not present a serious burden on the Examiner. For a restriction requirement to be proper, two criteria must be met:

- (A) The inventions must be independent or distinct as claimed; and
- (B) There must be a serious burden on the Examiner if restriction is not required.

If the search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to independent or distinct inventions (see MPEP §803). Applicants submit that examination of all pending claims can be made in the present application without serious burden to the Examiner. Specifically, Applicants note that a search of the prior art directed to all limitations in the pending claims has already been conducted and action on the merits taken. In response to the Examiner's previous actions on the merits and in view of the Request for Continued

Examination filed October 16, 2003, all that remains is the Examiner's reconsideration of the pending claims in view of Applicants traverse of previous rejections of the claims. Specifically, the Amendment filed October 16, 2003 merely requested reconsideration of the Examiner's previous rejections and added two new claims which merely present claim language suggested by the Examiner to overcome the previous rejections. For at least these reasons, Applicants respectfully request that the restriction requirement be withdrawn.

Provisional Election

Applicants provisionally elect Species II (represented by Fig. 4) in the event that the restriction requirement is made final. Applicants assert that claims 1, 2, 6-8, and 11-20 read on the provisionally elected species. Moreover, Applicants assert that claims 1, 6 and 19 are generic to all of the identified species. Specifically, Applicants note that the Examiner has interpreted the threads formed on the rods of the claimed suspension damper to be "a tapered interface" as recited in claims 1 and 19 (see, e.g., Office Action mailed April 4, 2003). Accordingly, claims 1 and 19 read on each species identified by the Examiner. Applicants also note that claim 6 reads on each of the species identified by the Examiner.

In view of the foregoing remarks given herein, Applicants respectfully request reconsideration of the restriction requirement. If there is any matter that may be resolved by telephone or facsimile, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this response. If any petition is due, or if any additional fee is required to complete this communication, please consider this to be a request for such and charge any additional fees to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: 

David W. Dorton
Reg. No. 51,625

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 241-6234 (facsimile)